

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE J.B.KOSHY

MONDAY, THE 3RD DECEMBER 2007 / 12TH AGRAHAYANA 1929

Crl.Rev.Pet.No. 812 of 2000

**CRA.373/1998 OF SESSIONS COURT, THRISSUR
SC.155/1996 OF I ADDL. ASSISTANT SESSIONS COURT, THRISSUR**

REVN. PETITIONER:

**KUTTAPPAN,
S/O. ASARATH VEETIL SANKARANKUTTY,
THAMMANIMATTOM, KUNNATHUNADU TALUK,
ERNAKULAM.**

BY ADV. SRI.S.RAJEEV

RESPONDENTS:

**STATE OF KERALA, REP. BY
PUBLIC PROSECUTOR,
HIGH COURT OF KERALA,
(CRIME NO. 249/96 OF THRISSUR
EAST POLICE STATION)**

BY PUBLIC PROSECUTOR SRI. K.C SANTHOSHKUMAR

**THIS CRIMINAL REVISION PETITION HAVING BEEN FINALLY HEARD
ON 03/12/2007 ALONG WITH CRRP NO. 884 OF 2000,THE COURT
ON THE SAME DAY PASSED THE FOLLOWING:**

J.B. Koshy, J.

Crl.R.P. Nos. 812 & 884 of 2000

Dated this the 3rd day of December, 2007

Order

Six accused persons were charge-sheeted on the allegation that on 11.5.1996 at about 6.45 p.m. accused conjointly with the intention of committing dacoity committed theft of Rs.4,30,000/- kept by CW1 on the petrol tank of the bike KL/8A 9453 from the premises in front of the Thrissur Municipal Office on the M.O. road and for committing dacoity the first accused voluntarily caused hurt to CW1 by beating on his face and kicking on the belly and all the accused escaped in an ambassador car KBF 9380 and thereby the accused committed the offence punishable under section 395 of the Indian Penal Code. All the six accused were convicted by the trial court. But, in appeal, A3 to A6 were acquitted and conviction of A1 and A2 were confirmed. Two revision petitions are filed by A1 and A2 challenging their conviction and sentence.

2. PW1 deposed that a bag containing currency notes for Rs.4,30,000/- was snatched away from him. He also stated that when he got the amount from Chiriyankandath jewellery, he kept the money in three plastic covers and the covers were kept in a plastic cover. After he got down from the jewellery, he went in a

bike. While attempting to start the bike keeping the cover containing money on the petrol tank, one person came from from western side and took the plastic bag and when he caught hold of his hand, he gave a blow on his face. Thereafter, he ran with the cover containing money towards a car which was waiting there and entered the car. Three other persons also got into the car and two other persons were found sitting in the car. PW1 reported the matter to the police constable who was standing there. The policeman stopped a bike and travelled on the back side of the bike and followed the car. PW1 went to the police station and informed the matter. While he was giving the statement, the policeman who followed the car on the bike came there along with two persons. He identified A1 and A2. He also stated that money was brought by the police. He identified the third accused as the person who snatched away the money from him. He identified the remaining accused also subsequently. PW3 is the police constable who followed the car in the bike of PW6 and he stopped the car and he was able to catch A1 and A2. Others in the car ran away. He got back the money also. His evidence is supported by PW6. So, A1 and A2 were caught red-handed. A2 was driving the car. There is a group of six persons involved in the matter. They assaulted and

committed theft. Each one is guilty. However, since others ran away, PWs 3 and 6 were able to identify only A1 and A2. Therefore, others were given the benefit of doubt. The allegation was that A1 and A2 were involved in the group and the money was recovered from a car where A1 and A2 were there. Ext.P8 document was produced to show the origin of the money. Merely because Ext.P8 was not proved or the origin of the money was not proved will not justify commission of dacoity by A1 and A2. A1 and A2 caught red-handed. PWs 1, 3 and 6 prove the case of the prosecution beyond doubt. In these circumstances, it cannot be stated that A1 and A2 are not guilty for the offence of dacoity. Merely because trial court relied on the C.D. statement is not a ground of acquittal and even if reliance of C.D. statement is eschewed evidence of PWs 3 and 6 proves the guilt of A1 and A2 beyond reasonable doubt. I see no ground to interfere in the conviction and sentence entered by the trial court and appellate court in a revision petition. However, I note that the incident occurred in 1996. Therefore, I modify the sentence and they are sentenced to undergo rigorous imprisonment for two months and to pay a fine of Rs.20,000/- each. If fine amount is not paid, A1 and A2 shall also undergo simple imprisonment for two months each. They are also entitled to right of set off. The Revision

Petitions are disposed of confirming the conviction, but, modifying the sentence.

J.B.Koshy
Judge

vaa

J.B. KOSHY, J.

Crl.R.P. Nos.812 and
884/2000

Order

Dated:3rd December, 2007